*PSAC* v. *GNWT*, 2007 NWTSC 20

Date: 2007 03 12
Docket: S-0001-CV2004000345

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

PUBLIC SERVICE ALLIANCE OF CANADA

Applicant

- and -

GOVERNMENT OF THE NORTHWEST TERRITORIES

Respondent

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Application seeking dismissal of application for judicial review.

Heard at Yellowknife, NT on January 11, 2007.

Reasons filed: March 12, 2007

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REASONS FOR JUDGMENT OF THE HONOURABLEJUSTICE V.A. SCHULER

Mr. Vaughn del Valle appearing
for himself and seeking to appear for the Public
Service Alliance of Canada

Counsel for the Respondent: John Holden

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## REASONS FOR JUDGMENT

[1] This is an application by the Government of the Northwest Territories ("GNWT") seeking dismissal of the within application for judicial review. The application for judicial review arises from an arbitration which in turn arose from a grievance by Mr. del Valle. The main issue is whether Mr. del Valle has standing to pursue the application on behalf of the Public Service Alliance of Canada ("PSAC") or on his own behalf. PSAC was not separately represented on this application for dismissal.

### Background

[2] Mr. del Valle was an employee of the GNWT and a member of PSAC. He was laid off and grieved the way that the GNWT dealt with his priority status for other positions. His grievance was taken to arbitration by PSAC. By an award dated October 6, 2004, the Arbitrator dismissed the grievance on the merits and also as having been filed beyond the time limits set out in the collective agreement. The award indicates that PSAC was representedby counseland that Mr. del Valle was a witness at the arbitration hearing.

[3] On November 5, 2004, PSAC through its local counsel filed an originating notice seeking judicial review of the arbitrationaward. The partiesnamed in the originating notice were, and still are, PSAC as applicant and the GNWT as respondent.

[4] On November 19, 2004, the return date in the originating notice, PSAC's local counsel appeared in Supreme Court Chambers. He advised the Court that service of the originating notice had not yet been effected on either the GNWT or the Arbitrator. He advised further that PSAC "is not going to proceed with this. They're going to allow the grievor, Vaughn del Valle, to proceed with it on his own, and he is going to proceed as an unrepresented litigant". Counsel also advised the Court that PSAC had commenced the judicial review proceedings at Mr. del Valle's request to meet the 30 day time limit for filing under the Rules of Court. He asked that the proceedings be adjourned *sine die* and said that Mr. del Valle would be informed that he had to proceed with service.

[5] In December 2004, local counsel for PSAC filed a notice of intention to cease acting. That notice shows the last known address for PSAC in care of Mr. del Valle.

[6] The GNWT and the Arbitrator were not served with the originating notice by Mr. del Valle until approximately the last week of February 2005. The Arbitrator corresponded with counsel for the GNWT, indicating that he had the original copy of the award, but none of the materials filed by the parties in the arbitration, having disposed of them once the appeal period had expired. He also indicated that copies only, not originals, of documents had been filed and that no arrangements had been made by the parties to the arbitration for the evidence taken to be recorded or transcribed. The Arbitrator has not made a return of the record to this Court nor has he filed anything with this Court to comply with Rule 598(3) in explanation of the absence of a record as required by Rule 598(1).

[7] In September 2006, Mr. del Valle filed a noticeof motionsubtitled"Application for Judicial Review", in which further grounds for judicial review are set out and further relief is sought in the form of summary judgment, a hearing *de novo* in this Court and a direction that the Legislative Assembly Management Board

conduct certain investigations. The notice of motionwas filed in the proceeding commenced by PSAC's originating notice.

[8] In October 2006, the GNWT filed its application for dismissal of the judicial review proceedings.

Issues

[9] The grounds relied on by the GNWT in support of its application for dismissal are that (i) Mr. del Valle has no standing to represent PSAC in the judicial review proceedings or to pursue them in his own name; (ii) failure to serve the originating notice within the time limit in the Rules of Court has resulted in prejudice; and (iii) the relief sought in Mr. del Valle's notice of motion exceeds what is available on a judicial review.

Does Mr. del Valle have standing to pursue the judicial review application?

[10] The GNWT argues that Mr. Del Valle does not have standing to proceed with the judicial review application, either on behalf of PSAC or in his own name. The GNWT argues that since only PSAC as the union can submit a grievanceto arbitration, only it can seek judicial review of the result of that arbitration, relying in particular on *Yashin v. National Hockey League* (2000), 192 D.L.R. ($4^{th}$) 747 (Ont. Sup. Ct. Jus.). GNWT also objects to Mr. del Valle, who is not a lawyer, being permitted to represent PSAC.

[11] Mr. del Valle argues that he has been authorized by PSAC to pursue the judicial review in its name; in that regard he relies on certaindocumentation from PSAC to which I will refer. Alternatively, he argues that he can proceed in his own name as the employee who brought the grievance forward. He distinguishes his situation from cases such as *Yashin*, where the union did not support the judicial review application.

[12] To date, no application has been brought to substituteMr. del Valle for PSAC as the named applicant in this matter. Mr. del Valle made it clear in his argument that he prefers that PSAC remain the applicant. He relies in part on the submission made by PSAC's local counselin Chamberson November19, 2004, to which I have referred above.

[13] Mr. del Valle also relies on a letter he received from Ottawa counsel for PSAC.

The letter, dated December 13, 2004, states in part:

> The PSAC instructed us to arrange for the issuance of a judicial review application in its name in respectof an arbitrationdecision involvingyour grievance. We understand that the PSAC has advised you that, while it is not prepared to support the judicial review application, it is prepared to consent to you proceeding with that application in its name. To that end we retained [local counsel] in Yellowknife to commence the process.

[14] The second document relied on by Mr. del Valle is an affidavit by another of PSAC's lawyers. It was filed as part of an "Authorizations and Precedents Binder" rather than as an affidavit in this action, it lacks the style of cause and it has not been sworn before a person authorized to take oaths outside the Northwest Territories as required by s. 67 of the *Evidence Act*, R.S.N.W.T. 1988, c. E-8. Nevertheless, I have reviewed it. The deponent of the affidavit says:

> 1. The Public Service Alliance of Canada has no objection to Mr. del Valle's pursuit of an application for judicial review in respect of the decision of Arbitrator Allan Hope, Q.C., dated October 6, 2004.
>
> 2. In December, 2006, when Mr. Austin Marshall filed Notice of Intention to Cease Acting with the Supreme Court of the NorthwestTerritories, the Public Service Alliance of Canada was aware of Mr. del Valle's intention to pursue the application which had already been filed.
>
> 3. It is the position of the Public Service Alliance of Canada that Mr. del Valle has standing in respect of this application for judicial review in his own right.
>
> 4. The Public Service Alliance of Canada will not object to a motion for an amendment of the style of cause which would allow the application to proceed with Mr. del Valle as the named applicant.

[15] PSAC's position that Mr. del Valle has standingin respectof this applicationfor judicial review in his own right is not helpful in that it cites no authority or precedent in support of that position.

[16] I find PSAC's position contradictory and unclear. The remarks made by local counsel in Chambers on November 19, 2004, especially the referenceto Mr. del Valle proceeding as an unrepresented litigant, and the affidavit suggest that it was anticipated that Mr. del Valle would seek to be named as the sole applicant on the judicial review application. However, the letter of December 13, 2004 could be interpreted to indicate that PSAC would continue to be the named applicant. Although Mr. del Valle submitted that PSAC supports the application, the letter says that PSAC is not prepared to support the application. It seems to me contradictory for PSAC to say that it will not support the application but at the same time that it consentsto Mr. del Valle proceedingwith the application in PSAC's name. It may be that the letter is awkwardly worded and that the intent was to say that PSAC consents to Mr. del Valle proceedingin his own name with the application that PSAC filed in its name. It is certainly not clear to me what PSAC intended the relationship to be, if any, between it and Mr. del Valle in regard to the judicial review application.

[17] Mr. del Valle said in argument that his preference is for PSAC to remain the applicant because it has more resources than he does. This points up something I find quite remarkable, that an organization as sophisticated as PSAC would permit an individual who is not a lawyer to represent it on a judicial review application. So long as PSAC remains a party to the application, it risks liability for costs and it seems unlikely that it would be willing to risk that liability without exercising any control over the proceedings, instead leaving them to a non-lawyer. It is not clear whether PSAC is even aware of the expanded relief sought by Mr. del Valle in his notice of motion.

[18] Also relevant to whether Mr. del Valle can or should be permitted to represent PSAC is Rule 7, which provides as follows:

> 7.(1) A party to a proceeding who is under disability or acts in a representative capacity shall be represented by a solicitor.
>
> (2) Unless otherwise ordered by the Court, a party that is a corporation shall be represented by a solicitor.
>
> (3) Any party other than one referred to in subrule (1) or (2) may act in person or be represented by a solicitor.

(4) Notwithstanding subrules (1) and (2), the Court may grant audience to any individual where it considers it appropriate in the interests of justice.

[19] Assuming that PSAC is not a corporation, it can act in person (for example, by one of its officers) or be represented by a solicitor. Neither description applies to Mr. del Valle.

[20] Rule 7(4) may be read to apply only to the situations in subsections (1) and (2). However, even if Rule 7(4) can be said to apply to the situation at hand, I am unable to conclude that it is appropriate in the interests of justice to allow Mr. del Valle to represent PSAC when it is not clear to me that PSAC intends for him to do so or that PSAC intends to remain the applicant in these proceedings with all that entails. If PSAC does intend to remain as applicant, it has the burden of convincing this Court why it should be permitted to appear other than by a solicitor. It has filed nothing to discharge that burden. In these circumstances, I would decline to permit Mr. del Valle to represent PSAC.

[21] Mr. del Valle's alternate position is that he should be permitted to pursue the judicial review application in his own name. Although he has not brought a formal application to be substituted as the named applicant, I will deal with this issue as if he had brought such an application.

[22] The employment of persons employed in the public service of the Northwest Territories, both unionizedand non-unionized,is regulatedby the *Public Service Act*, R.S.N.W.T. 1988, c. P-16 as amended. For the unionized workforce, the *Act* contemplates that the terms and conditions of employment will be negotiated and set out in a collective bargaining agreement, which is bindingon the employer, the union and the members of the bargaining unit to which the agreement applies: *Hiltz v. Commissioner (Northwest Territories)*, [2003] N.W.T.J. No. 52, 2003 NWTSC 48. The *Act* also requires that an agreement provide for the determination of disputes, failing which they will be determined by arbitration: s. 43.

[23] The collective agreement applicable to Mr. del Valle's employment was made between the Union of Northern Workers and the Government of the Northwest Territories as represented by the Minister Responsible for the Public Service. There is nothing before me explaining the relationship between the Union of

Northern Workers and PSAC, but no issues were raised in that regard, so I will continue to refer to the union as "PSAC". The collectiveagreement providesfor the adjustment of disputes and grievances. Although it does not preclude employees from "presenting" grievanceswithout the assistanceof PSAC, it does contain certain restrictions on their right to do so. In particular, article 37.14 provides that an employee shall have the right to present a grievance on matters relating to the application or interpretation of the collective agreementprovided he or she first obtains the authorization of the union prior to presenting such grievance. PSAC, on the other hand, under article 37.16, has the right to initiate and present a grievance to any level of management specified in the grievance procedure related to the application or interpretation of the collectiveagreement on behalf of one or more members of the union. In this case, Mr. del Valle's grievance involved the application or interpretation of the collectiveagreement.

[24] Article 37.19 of the collective agreement provides for arbitration:

> 37.19 Where a difference arises between the parties relating to the interpretation, application or administration of this Agreement including any question as to whether a matter is arbitrable or where an allegation is made that a term or condition of this Agreement has been violated, either of the parties may, after exhausting the grievance procedure in this Article, notify the other party in writing within twenty-one (21) days of the receipt of the reply at the Final Level of his/her desire to submit the difference or allegation to arbitration under the Public Service Act.

[25] Mr. del Valle submits that as an employee, he is to be considered a party to the collective agreement and a party to the arbitration, from which, he argues, it follows that he can seek judicial review of the decision of the Arbitrator.

[26] The collective agreement does not define the term "party" or "parties". However, the agreement is stated to be made between only two parties: the employer GNWT and the union. By article 3.01, the GNWT recognizes the union as the exclusive bargaining agent for all employees in the bargainingunit. Mr. del Valle relies on article 4.01, which provides that the provisions of the collective agreement apply to the union, the employees and the employer. However, article 4.01 does not, in my view, make each individual employee a party to the agreement; it is the union representing them that is the party.

[27] The language of article 37.19 ("either of the parties may ... notify the other party") suggests that it refers to only two parties, those being the signatories to the collective agreement, the GNWT and the union. Also supportive of this interpretation is article 37.24, which provides that where a party has failed to comply with any of the terms of the arbitrator's decision, *either party or employee* affected by the decision make take certain steps. That language clearly differentiates between the parties and an employee. Further, article A 10.E of Appendix 10 to the collective agreement starts off by referring to, "The parties to this Collective Agreement, the Government of the Northwest Territories and the Union, ...".

[28] I conclude that as an employee, Mr. del Valle is not a party for purposes of article 37.19. The parties to arbitration under the collective agreement are the GNWT and the union. That does not change even if, as Mr. del Valle claims, it was he who originally filed the grievance rather than PSAC. A right to file a grievance does not entail a right to take that grievance to arbitration and the collective agreement clearly states that only the parties - the GNWT and PSAC - can do the latter.

[29] The GNWT relies on *Yashin v. National Hockey League* (2000), 192 D.L.R. (4th) 747 (Ont. Sup. Ct. Jus.) and *Canadian Union of Public Employees, Local 59 v. Saskatoon (City)*, 2001 SKCA 67. Both of those cases recognize the labour law principle that where, under the terms of a collective agreement, the union is recognized as the sole bargaining agent for the employees, any individual right to contract and negotiate directly with individual unionized employees has been removed. They also recognize that where the only parties to the collective agreement and to the submission to arbitrationare the employer and the union, the individual employee does not have status to attack the arbitration award.

[30] In *Canadian Union of Public Employees, Local 59*, the Saskatchewan Court of Appeal noted that there were no special circumstances that would confer standing on the employee to pursue appeal proceedings where the union had decided against it.

[31] In the *Yashin* case, where the union had decided not to seek judicialreview of an arbitrator's award, it was held that the individual union memberhad no standing to do so. In *Yashin*, the Court reviews a number of cases setting out the general principle that our system of collective bargaining is based on representation by the union, not individual employees. It also cites the following passage by the Honourable George Adams in his text *Canadian Labour Law*:

> In general, and subject to exceptions, unless the collective agreement itself expressly grants individual employees the right to pursue a matter to arbitration, only the union or the employer may do so and only the union or employer have standing as of right to make an application for judicial review of any decision resulting from the arbitration proceedings. This flows from the recognition that the parties to the collective agreement are the trade union and the employer and that individual employees have no independent contractual status.

[32] In *Yashin*, two exceptions to the above principle are cited. The first is where there is evidence of unfair representation by or a reasonable apprehension of inadequate representation by the union. The second is where there is a conflict of interest between the union and the employee. It was not shown in this case that either of the exceptions applies.

[33] Mr. del Valle sought to distinguish *Yashin* on the basis that the union did not support the judicial review application there, while it does in this case. But the December 13, 2004 letter from PSAC's counsel clearly states that the union is not prepared to support the application.

[34] Mr. del Valle relies on a number of cases, which I have reviewed, among them *Noël v. Société d'énergie de la Baie James*, [2001] 2 S.C.R. 207, 2001 SCC 39. While *Noël* deals in part with issues arising from the provisions of the Quebec *Code of Civil Procedure*, the case is similar to this one because the employee sought judicial review of the award of an arbitratormade under the provisions of the collective agreement where the union had declined to proceed. In its decision, the Supreme Court referred to the monopoly that the union is granted over representation as one of the fundamental principles of labour law across Canada. It pointed out that because of its exclusive representation function, the presence of the union erects a screen between the employer and the employees. The employer loses the option of negotiating different conditions of

employment with individual employees. What the employer gains is the prospect that the problems negotiated and resolved with the union will remain resolved and will not be reopened in an untimely manner on the initiative of a group of employees, or even a single employee [paragraphs 41, 42 and 44].

[35] Administering the collective agreement is one of the union's essential roles. The Court did note [paragraph 45] that collective agreements may recognizethe right of employees to file grievances and take them to certain levels, even to arbitration, or to participate directly in grievances as parties. That was not the case in *Noël*. And it is not the case here, for the reasons I have explainedearlier. In the collective agreement in this case, the arbitration process is controlled by the union.

[36] Ultimately, in *Noël*, the Court decided that the employee did not have the necessary "interest" to seek judicial review of the arbitrator's decision. A restriction on the concept of interest was justified because of the need to respect the collective framework of the labour relations system, the roles of the players in that system and the employer'sreasonable expectations [paragraph68]. It has not been shown that any less restricted concept of interest should be applied in this case to give Mr. del Valle standing.

[37] I have not lost sight of the fact that Mr. del Valle claims to have the support of PSAC in pursuing the judicial review application. But for the reasons I have already referred to, it is not clear that PSAC supports the application and it has made at least one statement (in the letter of December 13, 2004) that it does not. In my view it is inconsistent, barring some unusual circumstances, with the relationship between the union and the employer and the union's status as exclusive representative of the employees, for the union to decline to pursue an application for judicial review but encourage and support an employee in doing so on his own. So even if it could be said with certainty that PSAC supports Mr. del Valle in proceeding (in which case one would expect PSAC to have addressed the issues raised in *Yashin* and *Noël*), that factor would not be determinative.

[38] Mr. del Valle also submitted that he has standing to pursue an application under s. 28 of the *Arbitration Act*, R.S.N.W.T. 1988, c. A-5, which provides as follows:

> 28. (1) Whether or not a submission provides for an appeal from an award, a partyto a submission or a person claiming under that party may apply to a judge to set aside an award on the grounds that
>
> (a) an arbitrator or umpire has misconducted himself or herself, or
>
> (b) an arbitration or an award has been improperly procured, and the judge may, in the discretion of the judge, dismiss the application or set aside the award ...

[39] Mr. del Valle submits that he has the right to pursue a s. 28(1) application as "a person claiming under" PSAC. However, in order to have standing as a person claiming under PSAC, he must have the same right PSAC has to bring the application as would, for example, a successor union that took on all PSAC's rights and obligations. Under the collective agreement, Mr. del Valle does not have the same rights and obligations PSAC has. This arises from the principle in article 3.01 of the collective agreement: PSAC is the exclusive bargaining agent for all the employees in the bargaining unit. Just as Mr. del Valle could not, as an individual employee, bargain with the GNWT, he cannot "claim under" PSAC a right to set aside the arbitration award to which only PSAC and the GNWT were parties. Nor can he claim under PSAC relief that PSAC has not claimed; PSAC decided to proceed by way of a judicial review application, not under s.28.

[40] Accordingly, I find that Mr. del Valle does not have standing or status to pursue the judicial review application, or a s. 28 application, in his own name.

[41] Although I have concluded that Mr. del Valle does not have standing, I am not persuaded that the appropriate relief is to dismiss the application. PSAC is still the named applicant. I will give PSAC time to determine whether it intends to proceed as set out at the end of these reasons.

[42] As a result of the above decision, I will deal only briefly with the other grounds relied on by the GNWT.

The failure to serve the originating notice within the time limits in the Rules of Court

[43] Although the originating notice was filed within 30 days of the Arbitrator's decision in compliance with Rule 596(1), it was not served within that time as the Rule also requires.

[44] I would not have allowed the GNWT's application for dismissal on this ground alone. The delay involved in serving the judicial review application was less than three months. The only prejudice alleged by the GNWT is the fact that the Arbitrator no longer has a record and counsel and Mr. del Valle have been unable to agree on a record.

[45] The lack of a record of the testimony given at the arbitrationhearing has nothing to do with the lateness of service; the parties to the arbitration did not make arrangements for recording of the evidence. Regarding any documents, according to the Arbitrator's letter to GNWT counsel, only copies were filed. There is no evidence before me as to whether any attempt was made to ascertain whether PSAC and the GNWT could agree on what those documents were or whether PSAC could assist in compiling a record. Had that step been taken, it may be that the Court could have settled the record on an application to do so, which it appears was contemplated at one time.

[46] In my view, the GNWT has not established the prejudice it claims. This ground does, however, reflect another difficulty in the position that Mr. del Valle is advocating. PSAC had carriage of the arbitration and would have decided what was presented in support of the grievance. PSAC has knowledge of what was filed and apparently decided not to request recording and transcription of the hearing. Whether the voluminous documentation filed by Mr. del Valle on this application was before the arbitrator is not clear. As I will refer to below, a judicial review is not a hearing *de novo*, it is a review of the record that was before the arbitrator and the arbitrator's decision. Mr. del Valle wants to go beyond that, which may involve revisiting decisions made by PSAC relevant to

the arbitration. I need not decide definitively whether that is the situation, but it points up a difficulty with the approach that Mr. del Valle and PSAC have taken with respect to the judicial review application.

The relief sought in Mr. del Valle's notice of motion

[47] The final ground on which the GNWT seeks dismissal is stated as substantial non-compliance with Part 44 of the Rules of Court. The GNWT says that the relief sought in the notice of motion filed by Mr. del Valle on September 8, 2006 goes beyond what is allowable by Part 44 and by the scope of judicial review generally. It cites Rule 592, contained in Part 44, which provides as follows:

> 592. (1) A proceeding under this Part shall be known as an application for judicial review.
>
> (2) On an application for judicial review, the Court may grant any relief that the applicant would be entitled to in a proceeding for any one or more of the following remedies:
>
> (a) an order in the nature of mandamus, prohibition, *certiorari, quo warranto* or *habeus corpus*;
>
> (b) a declaration or injunction.

[48] The GNWT submits that the relief sought by Mr. del Valle in his notice of motion and his exhibit binder is akin to a hearing *de novo* rather than judicial review of an arbitration award. The GNWT also submits that it is prejudiced in that it would require directions from the Court to appropriately respond to the material filed.

[49] Since the relief claimed must be set out in the pleadings, I need look only to the originating notice filed by PSAC and Mr. del Valle's notice of motion. A litigant cannot expand the relief he or she seeks by including things in an exhibit binder.

[50] The originating notice clearly seeks judicial review of the Arbitrator's October 6, 2004 decision based on alleged errors in his findings and his interpretation of the collective agreement. It asks that the award be quashed.

[51] Mr. del Valle's notice of motion seeks an order for judicial review in the nature of *certiorari* quashing the award and also the following:

1. Removal into this Court of the award and "all things touching the matter";

2. An order pursuant to Article 28(1) of the *Arbitration Act* to set aside the award;

3. It adds as a further ground that the arbitrator ignored a number of factors, mainly allegations of misconduct by the GNWT;

4. An order in the nature of a declaration of summary judgment;

5. In the alternative to paragraph 4, judicial review in the form of a hearing *de novo*;

6. An order in lieu of mandamus, directing that the Legislative Assembly Management Board commence an investigation into misconduct on the part of officials of the GNWT;

7. If the relief in paragraphs 4 and 5 is not ordered, an order in lieu of mandamus, removing the arbitrator and directing the GNWT and PSAC to expediently choose a new arbitrator from the list in the collective agreement and that a rehearing of the grievance be held.

[52] Mr. del Valle made it clear in his submissions that what he really wants is a trial in this Court of the issues he raises, including issues that may not have been raised before the arbitrator. He relies on *Weber v. Ontario Hydro*, [1995] 2 S.C.R. 929. However, that case does not assist Mr. del Valle as it indicates that where there is a collective bargaining regime and provision for arbitration in place, a dispute which, in its essential character, arises from the interpretation, application, administration or violation of the collective agreement, is to be resolved by arbitration, not in the courts.

[53] The issues that are properly part of the judicial review application arise out of Mr. del Valle's grievance and the interpretation, application or violation of the collective agreement. Therefore, the Court's role is restricted to judicial review of the arbitration award and does not extend to conducting a new hearing into the matters which were the subject matter of the arbitration: see also *Goudie v. Ottawa (City)*, [2003] 1 S.C.R. 141. For this reason, the relief sought in paragraph 5 of the notice of motion is not available. Nor is summary judgment, claimed in paragraph 4, available on a judicial review.

[54] Paragraph 6 raises a matter outside the scope of judicial review of the arbitrator's award and so is not relief available in the context of the judicial review application.

[55] Paragraphs 1, 3 and 7 are all items of relief that can be considered on a judicial review application. In that regard, I interpret what is sought in paragraph 1 as simply the return of the record.

[56] The relief sought in paragraph 2 has been dealt with in my reasons on the standing issue. Although PSAC has standing to put forward a claim under s. 28 of the *Arbitration Act,* Mr. del Valle does not.

[57] The inclusion of some unavailable heads of relief is not, however, a reason to dismiss the judicial review application in its entirety. Instead, the appropriate course of action would have been to strike out the claims that are not available.

Summary of decision

[58] My decision is therefore as follows:

1. Mr. del Valle does not have standing to pursue the judicial review application on behalf of PSAC or on his own behalf;

2. The order resulting from this decision is to be served on PSAC at its main office. Should PSAC not take any action on the record to pursue the judicial review application within 45 days of the date of serviceof the order upon it, the judicial review application will stand dismissed.

V.A. Schuler
J.S.C.

Dated at Yellowknife, NT, this
12th day of March 2007

Mr. Vaughn del Valle appearing
for himself and seeking to appear for the Public
Service Alliance of Canada
Counsel for the Respondent: John Holden

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